

# VORYS, SATER, SEYMOUR AND PEASE

ATTORNEYS AT LAW

52 EAST GAY STREET  
POST OFFICE BOX 1008  
COLUMBUS, OHIO 43216

614-464-6400  
CABLE VORYSATER

WRITER'S DIRECT DIAL NUMBER

614-464- 6410

IN WASHINGTON  
SUITE 800 SOUTH  
1800 M STREET, N.W.  
202-296-2929

ARTHUR I. VORYS 1856-1933  
LOWRY F. SATER 1867-1935  
AUGUSTUS T. SEYMOUR 1873-1926  
EDWARD L. PEASE 1873-1924

July 16, 1980

Donald T. Plank, Esq.  
Assistant City Attorney  
City of Columbus  
Department of Law  
Civil Division  
90 West Broad Street  
Columbus, Ohio 43215

US EPA RECORDS CENTER REGION 5



Dear Mr. Plank:

Pursuant to our telephone conversations of July 3, 8, and 11, 1980, and in response to letters to Earthco, Inc. from Mr. Jim Veeley of the City of Columbus Department of Health dated July 2, and from you dated June 30, I write to confirm that the owner (our client) and the operator of the property located at the southeast corner of Trabue and McKinley Roads have met, with their respective counsel, regarding the claimed violations of the Ohio solid waste laws and the City zoning and health codes. As you know, the particular site has been used for landfilling for such a length of time that we believe landfilling operations can continue as a non-conforming use, and, thus, would be beyond the scope of the Columbus zoning ordinances. Nonetheless, the owner and operator of the site believe that this property, proximately located to downtown, should be filled to grade for the ultimate improvement of the community as a whole and that such filling should be accomplished in a manner which is consistent with sound reclamation practices. We understand that the owner and operator's desire to reclaim this property beneficially is shared by the Board of Health, the Department of Development and the Code Enforcement Division.

Donald T. Plank, Esq.  
July 16, 1980  
Page Two

Because the greater part of this property is located in or upon an abandoned quarry, we are aware of the concerns of the Columbus Board of Health and the Ohio Environmental Protection Agency that any reclamation efforts be undertaken in a manner to protect the integrity of local ground water strata and the Scioto River. It is the opinion of the operator and owner of the property (the principals of which respectively have considerable experience in land-filling operations and geology) that reclamation of the particular property has been and can be achieved without causing environmental concerns.

As you and the various City offices are no doubt aware, the availability of waste fill materials which are clearly excluded from the definition of solid waste contained in the Ohio solid waste laws is extremely limited. Therefore, if this abandoned quarry is to be reclaimed and turned into useful land, innocuous materials which might be included within the definition of "solid waste" under the Ohio environmental laws also must be used as fill. We propose that the following materials are necessary for successful landfilling at the particular site: paper, cardboard and other commercial paper refuse; cut vegetation, including leaves, grass clippings, stumps, limbs, and brush from Upper Arlington, Grandview, Marble Cliff, various nurseries and private landowners; clean dirt; broken concrete pavement; debris from demolition operations and construction sites (but not including appliances or other metals); building materials; and non-toxic foundry sand.

As an indication of good faith, the operator of this site has currently ceased accepting any wastes which some might construe to be within the definition of solid waste and does not intend to accept any of such wastes until an accommodation with the interested government authorities can be reached. In as much as few, if any, convenient disposal sites exist for the above described wastes, we trust that the City appreciates the public pressure that will be relieved by our working together to achieve a speedy resolution of this problem.

I write to you with the understanding that you will discuss with the Columbus Division of Code Enforcement, the Columbus Board of Health and the Columbus Development Department the proposals of the owner and operator of the facility for the reclamation of this property

Donald T. Plank, Esq.  
July 16, 1980  
Page Three

to obtain the reactions and suggestions of the City agencies. Please be advised that Earthco, Inc. is represented by John E. Stroud, Esq., 246 East Sycamore Street, Columbus, Ohio 43201, who has reviewed and contributed to this letter on behalf of his client and concurs in the opinions and aims expressed herein. I would appreciate your extending to Mr. Stroud the courtesy shown me of being kept apprised of all developments in this matter. The owner and operator much appreciate your helpful cooperation in this matter and the anticipated cooperation and help of the City divisions and departments in the prompt resolution of this question. Please let me know of any way in which I might assist your deliberations.

Yours truly,



Robert A. Minor

RAM/db